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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

July 31, 2008

The Honorable Michael B. Mukasey
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Mukasey:

Today, the U.S. District Court for the District of Columbia issued a ruling rejecting the administration's claims that White House advisors are immune from testifying in response to congressional subpoenas. The court's decision also reaffirmed the President's obligation to provide the specific basis for any executive privilege assertions to provide Congress a means to evaluate those assertions. The Administration has not provided that basis despite my requests to do so for more than a year. For your convenience, I attach a copy of the court's opinion.

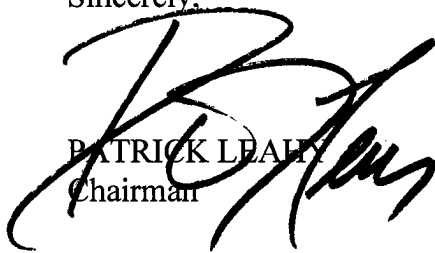
Karl Rove failed to appear and testify before the Senate Judiciary Committee last August 2 in response to a subpoena I issued July 26, 2007, as part of the Committee's investigation into the firing of U.S. Attorneys. It is my understanding that Mr. Rove's failure to comply was based on an August 1, 2007, letter from White House counsel Fred Fielding informing the Committee that the President would invoke a blanket claim of executive privilege to direct Mr. Rove not to produce responsive documents or testify before the Committee. Mr. Fielding's letter cited a memo from the Department of Justice's Office of Legal Counsel (OLC) to assert that Mr. Rove was "immune from compelled congressional testimony" as an "immediate presidential advisor."

Please advise me by no later than next Thursday, August 7, when you will be withdrawing the erroneous OLC opinion from Stephen Bradbury relied upon by the White House to justify non-compliance with congressional subpoenas since that opinion has been rejected by the court.

The Honorable Michael B. Mukasey
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In addition, please inform me whether the court's decision will cause you to reevaluate other Department memoranda and opinions supporting overbroad and unsubstantiated executive privilege claims not only in the U.S. Attorneys investigation, but also in other matters, like the claims used to block Congress from investigating warrantless wiretapping, the leak of the name of undercover CIA agent Valerie Plame for political retribution, and White House interference in the Environmental Protection Agency's decision-making. Which of these do you now intend to withdraw?

Sincerely,



PATRICK LEAHY
Chairman

cc: The Honorable Arlen Specter

Enclosures